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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/578,672	05/25/2000	Cynthia A. Donovan	1112	7186
30748	7590	07/30/2012		
INNOVATION PARTNERS 540 UNIVERSITY AVE. SUITE 300 PALO ALTO, CA 94301			EXAMINER MIRZA, ADNAN M	
			ART UNIT 2443	PAPER NUMBER
			MAIL DATE 07/30/2012	DELIVERY MODE PAPER

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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*Ex parte* CYNTHIA A. DONOVAN, JIMMY JIANG, SIAMAK S.  
AYOUBPOUR, WILFRIED A. KRUSE, MICHAEL D. MCINTYRE,  
PURNA C. ROY, and LEON M. TRAISTER

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Appeal 2011-003467  
Application 09/578,672  
Technology Center 2400

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Before ROBERT E. NAPPI, KRISTEN L. DROESCH, and JUSTIN  
BUSCH, *Administrative Patent Judges*.

BUSCH, *Administrative Patent Judge*.

DECISION ON APPEAL

## STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from a non-final rejection of claims 1-31. We have jurisdiction under 35 U.S.C. § 6(b).

According to Appellants, the invention relates to a “method and apparatus [that] delays users from accessing a service via the world wide web in an orderly manner without maintaining a queue.” Abstract. Claim 1, reproduced below, is illustrative of the claimed subject matter:

1. A method of processing a first request for web page, comprising:
  - receiving the first request for the web page; and
  - transmitting, to a device from which the first request was received, at least one command to send a second request for the web page, and a first timestamp.

### *Rejections*

Claims 1-31 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Sandhu (US 6,985,953 B1; January 10, 2006) and Devine (US 6,606,708 B1; August 12, 2003).

## ISSUE

Appellants argue that the cited references do not teach the claimed limitation of “sending to a computer from which a request for a web page was received, a command to send a second request for the web page.” App. Br. 6-7. Appellants further argue that nobody “skilled in the art at the time the invention was made would have sent the timestamp to the client making the request for the web page.” App. Br. 11. Appellants also argue that the “Examiner provides no rationale for the claimed feature.” *Id.* Therefore, the

issue before the Board is: Did the Examiner err in finding that the combination of Sandhu and Devine teaches the limitation of independent claims 1 and 14 directed to transmitting “to a device from which the first request was received, at least one command to send a second request for the web page, and a first timestamp” and the similar limitation of independent claim 27?

### ANALYSIS

We have reviewed the Examiner’s rejections in light of Appellants’ contentions that the Examiner has erred. Further, we have reviewed the Examiner’s response to each of the arguments in the Appeal Brief and Appellants’ arguments in the Reply Brief.

The Examiner found that the relevant portions of the claims were taught by Devine. Appellants argue that the Examiner does not “assert that the Devine reference discloses sending to a computer from which a request for a web page was received, a command to send a second request for the web page as claimed.” App. Br. 6-7. Appellants discuss the relevant portions of the Devine reference and assert that there is no disclosure at all in Devine regarding sending such a command. App. Br. 7. The Examiner found that Devine’s heartbeat transactions and session keys teach the limitation of the claims relating to sending to a device “at least one command to send a second request for the web page.” Ans. 4-5. In the Answer, the Examiner merely repeats the rejection and does not provide any additional explanation of how the heartbeat transactions and/or the session keys teach the claimed limitation. Ans. 8-9.

Based on the arguments and evidence presented, we do not see, nor has the Examiner sufficiently shown, how the heartbeat transactions and the session keys of Devine would have rendered the claimed limitation of transmitting, “to a device from which the first request was received, at least one command to send a second request for the web page” in claims 1 and 14 obvious at the time of the invention. Independent claim 27 includes a similar limitation and thus, the same analysis applies.

#### CONCLUSION

Based on the analysis above, we conclude that the Examiner erred in rejecting claims 1 through 31 for obviousness under 35 U.S.C. § 103(a).

#### DECISION

The Examiner’s rejection of claims 1 through 31 under 35 U.S.C. § 103(a) as being obvious over Sandhu and Devine is reversed.

#### REVERSED

ELD